

CONSIDERATIONS

ON THE

NEGROE CAUSE,

COMMONLY SO CALLED,

[Price One Shilling and Six Pence.]

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ON THE

NEW YORK



COMMITTEE TO CALL

[The One Building and Six Fences.]

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ON THE
NEGROE CAUSE
COMMONLY SO CALLED,

ADDRESSED TO
THE RIGHT HONOURABLE
LORD MANSFIELD,
LORD CHIEF JUSTICE of the COURT of
KING'S BENCH, &c.

By SAMUEL ESTWICK, A.M.
Assistant Agent for the Island of BARBADOS.

THE SECOND EDITION.

L O N D O N,
Printed for J. DODSLEY, in Pall-Mall.
MDCCLXXIII,

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ADVERTISEMENT

TO THE

R E A D E R.

THE first Edition of the following Considerations on the Negroe Cause was written with haste, and published in a hurry. The hope of seeing some much abler pen than mine engaged in the discussion of so important a question, and yet seemingly so little understood, withheld me from the undertaking ; till disappointment made it the resolution of an hour, and want of time the effect of a few days attention only. It was evident that whatever was to be suggested on the subject, should be known antecedent to the legal decision of the Case : but led on by the
expec-

expectation of the more useful endeavours of others, already was the Term, in which judgment was to be given, treading closely on my heels, without my having taken one single step in advance of the design. Thus circumstanced, such dispatch became necessary as could not fail to produce errors, imputable both to me and the printer. Whilst one part of the pamphlet was printing, the other was preparing for the press: but even this expedition had not its desired effect. The Judgment was beforehand with the Publication: whereby the Considerations themselves were deprived of their object, and I, in some measure, foiled in my purpose. Upon finding however that the very grounds of my argument (to wit, the opinions of the Lord Chancellors Hardwicke and Talbot) were the subjects of *due attention* to the Court, and that the determination rested on this particular Case *only*, from circumstances of insufficiency arising out of the return made to the writ of Habeas Corpus, I was induced to suffer

fer this performance to make its appearance to the public eye, though, like Hamlet's Ghost, with all its imperfections on its head.

Being now called upon for a second Edition, I have carefully corrected the errors of the first, so far as they were perceivable to me. I have considerably enlarged the work itself. I have inserted several notes, in some of which the principles of the late published argument of Mr. Hargrave, and the argument itself, as applied to the merits of this question, are *shortly* examined, though (with what is offered in the text) it is to be presumed, *fully* refuted.

Supposing also that the judgment of the Court of King's Bench in this case might be no improper addition, I have, from the most authentic copy I was able to procure, prefixed it herewith : taking the liberty at the same time of making a few occasional remarks thereupon.

The following *is said* to be the substance of Lord Mansfield's speech in the case of Somerset and Knowles : " We pay due attention

attention to the opinion of Sir Philip Yorke and Mr. Talbot in the year 1729, by which they pledged themselves to the British Planters for the legal consequences of bringing Negroe-slaves into this kingdom, or their being baptized;" which opinion was repeated and recognized by Lord Hardwicke, sitting as Chancellour, on the 19th of October 1749, to the following effect: He said, "that Trover would lay for a Negroe-slave: that a notion prevailed, that if a slave came into England, or became a Christian, he thereby became emancipated; but there was no foundation in law for such a notion: that when he and Lord Talbot were Attorney and Solicitor General, this notion of a slave becoming free by being baptized prevailed so strongly, that the planters industriously prevented their becoming Christians: upon which their opinion was taken; *and upon their best consideration they were both clearly of opinion*, that a slave did not in the least alter his situation or state towards his Master or Owner, either by being christened, or
coming

coming to England : that though the statute of Charles II. had abolished tenure so far, that no man could be a *Villein regardant*; yet if he would acknowledge himself a *Villein* engrossed in any Court of Record, he knew of no way by which he could be entitled to his freedom, without the consent of his Master. We feel the force of the inconveniences and consequences that will follow the decision of this question : yet all of us are so clearly of one opinion upon the *only* question before us, that we think we ought to give judgment without adjourning the matter to be argued before all the judges, as usual in the Habeas Corpus, and as we at first intimated an intention of doing in this case. The only question then is, *Is the cause returned sufficient for the remanding him ? If not*, he must be discharged. The Cause returned is, the *slave* absented himself and departed from his master's service, and refused to return and serve him during his stay in England ; whereupon, by his master's orders, he was put on board the

B ship

ship by force, and there detained in secure custody, to be carried out of the kingdom and sold. So high an act of dominion must derive its authority, if any such it has, from the law of the kingdom *where* executed. A foreigner cannot be imprisoned *here* on the authority of any law existing in his own country. The power of a master over his servant is different in all countries, more or less limited or extensive; the exercise of it therefore must always be regulated by the laws of the place where exercised. The state of slavery is of such a nature, that it is incapable of being now introduced by Courts of Justice upon mere reasoning, or inferences from any principles natural or political; it must take its rise from positive law; the origin of it can in no country or age be traced back to any other source. Immemorial usage preserves the memory of positive law long after all traces of the occasion, reason, authority, and time of its introduction, are lost; and in

a Case

a Case so odious as the condition of slaves must be, taken strictly, the power claimed by this return was never in use here: no master ever was allowed here to take a slave by force to be sold abroad because he had deserted from his service, or for any other reason whatever; we cannot say, *the Cause set forth by this return* is allowed or approved of by the laws of this kingdom, and therefore the man must be discharged."

I must confess, I have been greatly puzzled in endeavouring to reconcile this judgement with this state of it, and with my comprehension.

"We pay due attention to the opinion of Sir Philip York and Mr. Talbot," are the words of the Noble Lord who delivered the judgment of the Court; and yet this judgment is, in operation and effect, directly subversive of this opinion. Now I must take for granted that this opinion would not have been cited, especially in so affirmative a manner, if it had had nothing at all to do with the Case then before the

Court: because such citation would have been unmeaning and unnecessary. This being admitted, it follows; that the law laid down in this opinion was either the law of the Case, or it was not. If it were the law of the Case, the judgment would have been governed by that law, and consequently contrary to what it is. If it were not the law of the Case, in order to shew what the law is, and that the law and the judgment might correspond with each other, as cause and effect, it would seem, *ex necessitate rei*, that the doctrine advanced in this opinion should have been set aside by the superior force of legal argumentation and authority. But the reasoning upon the judgment stands thus: In the Premises this opinion is cited as authority; then, without any middle term denying that authority, the conclusion is, by the judgment, that it is no authority at all. Under these problematical circumstances the only
solution

solution possible to me was, that there might be two decisions intentionally contained under one judgment: that is to say, that the opinion of Sir Philip York and Mr. Talbot, was the law upon the general merits of the question; and that this judgment of the Court was the law upon this particular state of it. Thus for instance: if the return made to the writ of Habeas Corpus in this Case had denied the lawfulness of the writ itself, and Mr. Steuart had claimed Somerset upon the ground only of being his commercial property; then the opinion of Sir Philip York and Mr. Talbot had operated as law and authority: but as the return had admitted the right of slavery, and Mr. Steuart had claimed Somerset as his slave, there being no laws slavery now *in use* in this country, either for Negroes, or for any other species of the human being, the judgment of the court was, *from the insufficiency of the Cause returned*, the law of this Case.

But

But no sooner had this reconciliation taken place in my mind, than another perplexity arose in its stead. In the recital of the opinion recognized by Lord Hardwicke sitting as Chancellour, it is made to conclude thus: "that though the Statute of Charles II. had abolished Tenure so far that no man could be a *Villein regerdant*, yet if he would acknowledge himself a *Villein* ingrossed in any Court of Record, he knew of no way by which he could be entitled to his freedom without the consent of his master."

Now, by connecting this latter with the former part of the opinion, in the manner that it is done, it appears, as if Lord Hardwicke meant to declare, that the state or situation of Negroes towards their masters or owners arose out of, and was founded upon, the remains of the antient laws of villenage in this country. That Lord Hardwicke might have said what is here stated, in order to shew (by way of illustration of the Case upon which he was then

then arguing) that even an Englishman might still become a slave in this country, *if he pleased*, I cannot deny: but with any intention to prove that the condition of Negroes proceeded from, and was the same with, the condition of villeins, is, I must assert, either the mistake of the person from whose notes this speech was taken, or the intention of him to puzzle and perplex the Case: for it is manifestly impossible that the Court could have put so much self-contradiction and ignorance of the law in the mouth of so wise and so great a lawyer. His Lordship says, “that Trover will lie for a Negroe slave. Now can any thing be more expressive of the law and condition of Negroes than this is? What the nature of an action of Trover is, and what kind of property is required in a plaintiff to maintain such an action, every Tyro of the law must be acquainted with. Would his Lordship have said that Trover would lie for a villein? Every Tyro of the law knows that it would not.

But

But if a Negroe and a villein were governed by the same laws, Trover would lie for a villein. His Lordship's own words therefore, and not this combination of them, are the best comment upon his meaning; and he in me, *non tali auxilio eget*, &c. It is enough that I have given the clew; the reader will unravel it himself.

I have now only a short word or two more to add, in address to the Reader; relying, from my own consciousness, upon his candour, that whatever errors of the head he may discover, he will impute nothing that is wrong to the dictates of my heart. It is **not** the want of humanity, it is not the want of feeling, but the possession of both, with the love of truth, that has given birth to these Considerations. My motives have been, to shew that America does not afford that scene of barbarity, which misrepresentation would have painted upon it: that cruelties and distress are to be found in much greater excess even in this elysium of liberty: that whatever is the state and condition of Negroes, it is Great Britain and
not

not America that is responsible for it: that this therefore is a British, and not an American question; as well it might be, since, if I may be allowed to reason chymically upon this occasion, whatever property America may have in its drugs, it is Great Britain that receives the essential oyl extracted from them. These have been my views. I neither meant to condemn or approve the state and condition of Negroes. I have appealed to the law: if the traffic made of them be as agreeable to right reason as it is according to law, I am glad of it; if it be not, let state necessities justify state tricks. But I meant an apology for, and not a panegyrick upon, myself.

CONSIDERATIONS
ON THE
NEGROE CAUSE, &c.

MY LORD,

BEING, both by birth and fortune, connected with one of the Islands in America, I was led, somewhat interestedly as your Lordship may suppose, to attend to the arguments that were lately offered in the Court of King's Bench, in the Case of *Somerfet the Negroe versus Knowles* and others. It was a new case, said to be full of concern to America; and it had engrossed much of general expectation. My object therefore was that of information: but, without meaning to lessen the labours, or

C 2 depreciate

depreciate the merits of the learned counsel concerned therein, I must confess, that the lights thrown on the case did by no means appear to me as, on either side, decisive of the point in question [a]. It is true that a vast and extensive variety of reading was shewn and discovered : the profoundest depths of learning and science were fathomed and explored : lawgivers, philosophers, civilians, from all historic existence, were brought to light and examined : the examples,

[a] The late publication of Mr. Hargrave's argument, as one of Somerset's counsel, gives me the satisfaction of seeing in the whole, what I had before the opportunity of hearing only in part. I confess I know not which most to admire, the labour of this Gentleman's researches, or the ingenuity with which his collected materials are systematized and disposed. It is a history, perhaps the most compleat that is, of the rise, progress, decline, and general state of slavery ; and, whilst it does as much honour to his humanity as to his understanding, will serve as a light to enlighten the footsteps of posterity, should a revival of the laws of Villenage be ever attempted in this country : but, having said this, I must recur to my former opinion, that, learned as his arguments are in general, in this particular case they are founded on false and mistaken

examples, definitions, and opinions, which Moses, Aristotle, Justinian, Grotius, Pufendorff, and the rest, had given of slavery, were cited, explained, and enlarged upon: the edicts and regulations of French, Spanish, German, Flemish, and Dutch police on this head were mentioned and produced.

mistaken principles, and are totally inapplicable to the merits of the present question. His first principle or point is, (vid. p. 12.) that "whatever Mr. Steuart's Right may be, it springs out of the condition of slavery; and accordingly, says he, the return *fairly* admits slavery to be the *sole* foundation of Mr. Steuart's Claim." Thus, with a *Petitio Principii*, which neither is, can, or will be admitted, and upon a manifest error in the return made to the writ of Habeas Corpus, does the argument of Mr. Hargrave commence, rest, and depend. If the return, instead of admitting, there being no law to countenance such admission, had relinquished the right, and denied the claim, of slavery: if it had set forth, that Mr. Steuart was the *bona fide* purchaser of Somerset in the legal course of trade: that he had bought him out of a ship's cargo from Africa, together with some elephants teeth, wax, leather, and other commodities of that country, for which he paid his money, or otherwise gave in exchange the manufactures of this country: that he had brought him here as an article of commerce with his other goods, under the sanction of
the

ed. But, my Lord, with all due deference and submission, may I ask, how applicable was this antiquated and foreign doctrine to the case then under your Lordship's contemplation? The politics of Aristotle are not the rules of the Court of King's Bench; *neither is Roman jurisprudence the law of that court.* As a display of general knowledge, it had with me, as it must have had

the laws of trade: that he meant to export him hence, under the same protection, with his other property, in order to be sold for his better advantage in one of the English Colonies in America: that a writ of *Habeas Corpus* might as well issue on account of his elephant teeth, his wax, his leather, and his other commodities of that country, as on account of his Negroe, they being expressly under the same predicament of law, and so forth: I say, under such circumstances, and upon such a return, what would become of this stately pile of elaborate argument?

High-built, like Babel's tower, to magnify the fall! Must not the lawyers seek new ground to build upon? Must not the Court lose that error of insufficiency, which now supports its only right of Judgment?

Note, Although this argument of Mr. Hargrave is said to have been delivered in the particular Case of *Somerfet a Negroe*, yet it is meant and intended as a course of reasoning upon the general question of the state and condition of *Negroes*.

with every one present, its great abundance of merit and commendation; and I had followed the learned gentlemen, with the highest pleasure, in their travels and pursuits abroad in search of matter of illustration, if the case had been brought home with them at last, and rested on its own native ground and foundation. But herein, my Lord, I found myself unsatisfied and disappointed: for how the question remained with your Lordship as a point of law for the judgment of the Court, I own, I was unable to comprehend, or to learn. It is therefore, my Lord, that I now take the liberty to offer the following Considerations to your Lordship's notice and observance; trusting to the importance of the subject, and to your wonted candour, for my apology and pardon in the attempt.

I have read, my Lord, to distinguish, and have been ever taught to know, that the Lord Chief Justice of the Court of King's Bench is the great and first expounder

der of the laws of this Realm; great and first in dignity and in office; in your Lordship's person, great and first professedly in capacity also. Of these laws then, my Lord, I have apprehended that there are but two kinds, however sub-divided into sorts or species: the unwritten, or common law, of which judicial decisions are the evidence: or the written or statute law, otherwise called acts of parliament. Now, my Lord, so far as the case is referrible to either of these establishments, so far it lies before the Court, and falls under the cognizance of your Lordship. This is the source of enquiry leading to your judgment and determination; and all without the circle of this, I conceive to be inapposite and eccentric. The first question then, that would seem to arise on this position, is, What is the common law of the land respecting the case in issue, *considered as a case of slavery?* It was said, I remember, by one of the counsel, that the present state of slavery among Negroes was totally different from

from the ancient condition of villenage; that it was a new species of slavery utterly unknown to the common law of England [b]. In this opinion I readily coincide, and agree with the learned gentleman. The next question is, What do acts of parliament say on this head? I believe it must be said for them, that they are, enactively, if I may be allowed the expression, silent. If this be so; then, the conclusion will operate in

[b] It is said in Mr. Hargrave's argument, p. 23. "such was the expiring state of domestic slavery in Europe at the commencement of the 16th century, when the discovery of America and of the Western and Eastern coasts of Africa, gave occasion to the introduction of a new species of slavery." If the arguer had said *a new species of traffic*, instead of a new species of slavery, he had expressed the real matter of fact; seeing that the law by which this concern is regulated, considers it in no other light or view whatever. For this reason too, it cannot be enumerated among the several species of slavery that he has mentioned, and taken notice of; each distinct species having its distinct laws, appropriated thereto distinctly, as the laws of slavery. Among the Portuguese and Spaniards, I have been given to understand, that Negroes are, and have ever been considered, as with the English, matter of Property, and articles of commerce

in the nature of a plea to the jurisdiction of your Lordship's Court. If the case be unknown to the common law, and acts of parliament are silent thereupon, what basis must your Lordship's judgment take? Where there is no law, there can be no remedy. If the common law be defective, it is the business of acts of parliament to supply the defects: but until those defects are supplied; *sub judice lis est*, and the matter

in the common course of traffic; and were so estimated by the French, untill the refined age of Lewis XIV. gave rise to a new institution of law, under the title of the *Code noir*, for the particular government of Negroes in their American colonies. It were to be wished that a fit and proper digest of this sort could take place with us: but, I fear, the difficulty (which arises not so much from the subject, as from the means of introduction) will prevent the execution of any such plan. From the unlimited power of the Crown of France, when laws are made, it is easy to enforce an obedience to them: from the limited power of our monarchy, such obedience is not to be exacted. Each English colony has a legislature of its own; and although they all agree in the framing of laws not repugnant to the laws of England, yet they all widely differ among themselves in the mode and practice of those laws.

must

must remain undetermined. Your Lordship may however tell me, that, where positive law is wanting, whereupon to ground the decisions of a Court, recourse may to be had to the maxims and principles of law, to the spirit of the constitution. The result of this, my Lord, at best, is but matter of opinion; besides, cases founded on the self-same principles will often have very different determinations, according to the difference of circumstances, and the alteration or change of times. Thus, if it had even been an original maxim of the common law, that slavery was incompatible with the frame and constitution of this country, yet it does not therefore follow, that occasions have not since arisen to combat with this principle, and to justify particular conclusions differing from these general premises. For instance, my Lord, the impressing of seamen, is an idea as heterogeneous to the nature and essence of this government, as slavery painted on the blackest ground can be. It is slavery itself,

in its very definition ; and what signifies the name, says Hudibras, since the thing is the same ? But the indispensableness of the measure has nevertheless (to continue the metaphor) given colour to the practice, and it is now seen in another light and view. But to return : If your Lordship should be of opinion, for opinion it must be, if there is no positive law to ground your judgment upon, that Negroes in this country are free, I will place in opposition to this, the opinions of the late Lord Chancellour Hardwicke, and his predecessor the Lord Chancellour Talbot, to wit, that Negroes in this country are not free. Your Lordship perceives, that I take your opinion upon supposition only ; the other opinions are well-known facts. To search then for the grounds of your opinion, without the certainty of its being so, would be now premature and unnecessary : but, knowing the opinions of these two great oracles of law, it is of necessity to conclude, that they had the most sufficient foundation

foundation for them, seeing that it is allowed on every hand, that no opinion was ever given in any case whatever with greater solemnity, or more deliberation, than these were. Now, my Lord, to investigate the reasons of these opinions, is one way, perhaps, to arrive at the truth : but to follow men like these, in their researches, is a procedure fitted only to abilities such as your Lordship's are. As conjecture however is open to all, though positive knowledge is but the gift of a few ; I shall therefore venture to suggest what might in part have led the ideas of these great and wise men to the conclusion which they have drawn, namely, that Negroes in this country do not become free. I have before stated, my Lord, and have agreed with one of the learned counsel, that the condition of slavery among Negroes is unknown to the common law of this land : that it is a new species of slavery, which has arisen within, and not beyond, the memory of man, as is necessary to the descriptive qua-

lity of this kind of law; and, therefore, being not under the comprehension, it cannot be within the absolute provision of it, however reduceable thereto it may be made, by analogy, implication, or construction. I have said too, that acts of parliament are silent on this head. I have repeated what I had before stated and said, in order to draw this inference: that although the slavery of Negroes is unknown to the common law of this country, and acts of parliament are silent thereupon; yet *the right* which Mr. Steuart claims in the Negroe, Somerset, is *a right* given him by act of parliament.

I must then apprise your Lordship, that from this instant it is my intention to drop the term Slavery, at least as a term in argument with me. It is an odious word, that engendered this law-suit, and now feeds and supports it with the fuel of heated passions and imaginations. Instead therefore of such prejudiced and unpopular ground, whereupon the case has hitherto been made to

3

stand,

stand, I shall take the liberty to remove its situation, to change its point of view, and to rest it on the land of *commercial Property*; from whence, perhaps, it will be seen, not only in a less offensive light, but where also it may find a foundation more solid and substantial for its support.

It is matter of course, my Lord, to say, that you are well acquainted with all the acts of parliament relative to the Royal African Company of England, from its establishment by charter in the reign of Charles the Second down to the present time [c]. Now, my Lord, the end of this company was trade: the object of that
trade

[c] I have referred to this period of the Negroe-trade to Africa, because Acts of Parliament go no farther back in confirmation of it; but its commencement was of much earlier date. It began in this country about the middle of the 15th century, and was carried on by means of letters patent obtained by individual traders for their private emolument, until the growth of the English plantations in America, in the next century, made it an object of such importance,

trade Negroes, as the preamble to the act of the 23d of Geo. II. c. 31. thus expressly declares : “ Whereas the trade to
 “ and from Africa is very advantageous to
 “ Great-Britain, and necessary for supplying the plantations and colonies there-
 “ unto belonging with a sufficient number
 “ of Negroes, at reasonable rates, it is
 “ therefore enacted, &c. &c.” What-
 ever then, my Lord, is matter of trade,
 your Lordship knows, must be matter of

tance, as not only to render the establishment of a company necessary, but of such profit, as to engage even crowned heads to be concerned therein. The first charter was granted in the year 1661, in favour of the Duke of York ; but being revoked by consent of parties, it was renewed in the year 1663, with more ample privileges than the former. The principal adventurers here, were Queen Catharine of Portugal, Mary Queen of France, the Duke of York, Henrietta Maria Duchess of Orleans, Prince Rupert, and others of the Court. Thus upon the ground of an exclusive Right was this trade continued, till, by the vast increase of the colonies, it became, in the beginning of the present century, a weight too heavy for the support of prerogative ; and so falling under the protection of Parliament, was made, as it now is, a free, open, and national concern.

property.

property. The idea of the one is necessarily involved in the other. But, my Lord, these acts have not been content with this general construction : they have gone farther, and have themselves set the mark and stamp of property upon Negroes. Whether, my Lord, the Legislature is justifiable herein, or whether it has authority by the laws of nature to do this, is not for me to determine. It is, perhaps, a right, like many other civil rights, established by power, and maintained by force : but this is matter of speculation for the speculative. I here contend only, that the fact is as I have stated it to be ; and as it will appear by the statute of the 25th of Geo. II. c. 40. “ which was made for the
 “ application of a sum of money therein
 “ mentioned, granted to his Majesty, for
 “ making compensation and satisfaction to
 “ the Royal African company of England, for
 “ their charter, lands, forts, castles, slaves,
 “ military stores, and all other their effects
 “ whatsoever ; and to *vest* the lands, forts,
 “ castles, slaves, military stores, and *all other*

“ *their effects*, in the company of merchants
 “ trading to Africa ;” and wherein it is en-
 acted, that “ the Royal African company of
 “ England, from and after the tenth day of
 “ April one thousand seven hundred and
 “ fifty-two, shall be, and they are hereby,
 “ absolutely divested of and from their said
 “ charter, lands, forts, castles, and military
 “ stores, *canoe-men, castle-slaves*, and all *other*
 “ *their estate, property, and effects* whatsoever;
 “ and that all and every the British forts,
 “ lands, castles, settlements, and factories,
 “ on the coast of Africa, beginning at Port
 “ Sally, and extending from thence to the
 “ Cape of Good Hope inclusive, which were
 “ granted to the said company by the said
 “ charter, or which have been since erected
 “ or purchased by the said company ; and all
 “ other the regions, countries, dominions,
 “ territories, continents, coasts, ports, bays,
 “ rivers, and places, lying and being within
 “ the aforesaid limits, and the islands near ad-
 “ joining to those coasts, and comprehended
 “ within the limits described by the said
 “ charter ;

“ charter; and which now are, or at any
 “ time heretofore have been, in the possession
 “ of, or claimed by, the said royal African
 “ company of England, together with the
 “ cannon and other military stores, *canoe-*
 “ *men, castle-slaves*, at and belonging to the
 “ said forts, castles, settlements, and factories,
 “ particularly mentioned and set forth in the
 “ first schedule to this act annexed (such
 “ stores as have been made use of in the ser-
 “ vice of the forts, and such *canoe-men and*
 “ *slaves* as may have died since the taking
 “ of the said survey, only excepted); and
 “ also all contracts and agreements made by
 “ or for, or on the behalf of, the said royal
 “ African company, with any of the kings,
 “ princes, or natives, of any of the countries
 “ or places on the said coasts; and *all other*
 “ *the property, estate, and effects* whatsoever,
 “ of the said royal African company, shall,
 “ from and after the said tenth day of April
 “ one thousand seven hundred and fifty-
 “ two, *be vested in*, and the same and every
 “ of them are and is hereby *fully and abso-*

“ *lutely vested in the said corporation, called*
 “ and known by the name of ‘ The com-
 “ pany of merchants trading to Africa,’ and
 “ their successors, freed and absolutely dis-
 “ charged of and from all claims and de-
 “ mands of the said royal African company
 “ of England, and their creditors, and every
 “ of them, and of all and every person or
 “ persons claiming under them, or any or
 “ either of them.”

Here, my Lord, the *legal nature* of Ne-
 groes, if I may so speak, is fully estab-
 lished and clearly ascertained, by act of par-
 liament. Your Lordship perceives, that they
 are *in hoc verbo* declared to be property, and
 are vested as goods and chattels, and as other
 effects are, in owners prescribed for them.
 If it is observed, my Lord, that the term
 Slave is made use of, and recognized by this
 act of parliament; it is answered, not re-
 latively so, as to a state of slavery, but de-
 scriptively only of such things as shall be
 deemed the property and effects of this com-
 pany. The statute, my Lord, of the 5th
 of His present Majesty, ch. xliv. enacts,
 that

that such parts of Africa as were ceded by the last treaty of Paris, together with the goods, slaves, and other effects thereunto belonging, and which were, by a former act, vested in the company of merchants trading to Africa, shall now become the property of the Crown; so that the King, as well as this corporation of merchants, are, by the law of the land, possessed, and are now the actual and rightful owners, of a very considerable number of Negroes, under the afore-mentioned description, of canoe-men, castle-slaves, women, children, carpenters, and other artificers, particularly set forth in schedules annexed to the afore-mentioned acts. It is also enacted, “ that the trade to Africa shall be free and open to all His Majesty’s subjects, without preference or distinction;” and it is further provided, “ that these acts shall be taken and deemed as public acts, and shall be judicially taken notice of as such by all Judges, Justices, and other persons whatsoever, without specially pleading the same.”

same." Thus far, my Lord, do acts of parliament extend in the confirmation and establishment of this trade to Africa. I shall now beg leave to cite one statute more, in order unquestionably to prove what the sense of the Legislature of this country is, with respect to the state and condition of Negroes. This statute, my Lord, is the 5th of Geo. II. c. 7th, wherein (it being made for the more easy recovery of debts in His Majesty's plantations and colonies in America) it is enacted "that,

" from and after the twenty-ninth day of

" September one thousand seven hundred

" and thirty-two, the houses, lands, *Negroes*,

" and other hereditaments and real estates,

" situate or being within any of the said

" plantations, belonging to any person indebted, shall be liable to, and chargeable

" with, all just debts, duties, and demands,

" of what nature or kind soever, owing by

" any such person to His Majesty, or any of

" his subjects, and shall and may be assets

" for the satisfaction thereof, in like manner

" as

“ as real estates are by the law of Eng-
 “ land liable to the satisfaction of debts
 “ due by bond or other specialty, and shall
 “ be subject to the like remedies, proceed-
 “ ings, and process, in any court of law
 “ or equity, in any of the said plantations
 “ respectively, for seizing, extending, sell-
 “ ing, or disposing, of any such houses,
 “ lands, *Negroes*, and other hereditaments,
 “ and real estates, towards the satisfaction
 “ of such debts, duties, and demands, in
 “ like manner as personal estates in any of
 “ the said plantations respectively are sei-
 “ zed, extended, sold, or disposed of, for
 “ the satisfaction of such debts.”

Herein then, my Lord, is not to be
 found even the trace of an idea of slavery
 considered as such by Parliament, among
Negroes; but, on the contrary, what their
 legal state and condition is, is conceived
 and expressed in terms so plain and clear,
 so explicit and precise, that the most scepti-
 cal cannot doubt the meaning, nor the
 most simple fail to understand it. They
 are,

are, as houses, lands, hereditaments, and real estate, assets; and, in like manner as personal estate, to be disposed of, for the payment of debts due to the King and his subjects.

Upon this state and exposition then, my Lord, of these several statutes, it would seem that I am well warranted, by their authority, in my idea, that the right which Mr. Steuart claims in the Negroe Somerset, is a right given him by act of parliament; and confirmed in my proposition, that this is a case of property.

But, my Lord, in order fully to establish this doctrine, it may perhaps be expected, that I should not only shew what the law is, but that I should prove also what the law is not; and this must necessarily lead me to reason somewhat more closely on the subject.

I am aware it may be objected, my Lord, that property in Negroes so vested, is a property created in Africa for the use and purpose of the colonies in America: from
whence

whence a question will be deduced, Whether Negroes are property in England ?

It appears, my Lord, that a trade is opened, with the sanction, and now under the protection of parliament, between the subjects of Great Britain and the natives or inhabitants of Africa. The medium of this trade on the one hand are, manufactures, goods, wares, and other merchandize ; on the other, captive Negroes, or slaves ; which, for these commodities, are given in barter and exchange. It will be allowed, I presume, my Lord, that these British traders, or merchants, have an absolute property in their merchandize ; to truck and to traffic with this merchandize is the legal institution of the trade : it will be absurd then to deny, that they have not an equal interest in the thing received, as they had in the thing given. To avoid this dilemma then, the objection recurs ; that, in Africa they may have an interest, in America they may have the same, in Europe they have none : but assertion without proof, is argument without weight.

F

Where

Where is the law that has drawn this line of distinction? Is there any act of parliament, or clause of an act of parliament, that has fixed and described the zones or climates wherein property in Negroes may be held, or where it may not be held? Until I am better informed, my Lord, I must take for granted, that no such law exists; and if no such law does exist, the manifest conclusion is, that where property is once legally vested, it must legally remain; until altered or extinguished by some power co-equal to that which gave it [d].

But

[d] Mr. Hargrave says, in his argument, p. 67. "Another objection will be, that there are English acts of parliament, which give a sanction to the slavery of Negroes; and therefore that it is now lawful, whatever it might be antecedently to those statutes. The statutes in favour of this objection are the 5th of George II. ch. 7, which makes Negroes in America liable to all debts, simple contract as well as specialty, and the statutes regulating the African trade, particularly the 23 Geo. II. ch. 31, which in the preamble recites that the trade to Africa is advantageous to Great Britain, and necessary for supplying its colonies with Negroes. But the utmost which can be said of these statutes

But as it may perhaps be to the purpose; my Lord, to try the force and effect of these acts of trade referred to, I will, with your Lordship's indulgence, state a case or two, whereby their operation in this country might be felt and perceived.

Suppose, my Lord, that a fleet of merchant ships belonging to the African company, containing twenty thousand Negroes on board (more or less, it is of no matter), bound from Africa to America; should, by
 strange,

statutes is, that they complied authorize the slavery of Negroes in America; and it would be a strange thing to say, that permitting slavery there, includes a permission of slavery here. By an unhappy concurrence of circumstances, the slavery of Negroes is thought to have become necessary in America; and therefore in America our Legislature has permitted the slavery of Negroes. But the slavery of Negroes is unnecessary in England, and therefore the Legislature has not extended the permission of it to England; and not having done so, how can this Court be warranted to make such an extension?" Now this is the very assertion without proof that I have complained of above, and have there fully answered: but, in truth, the best answer it can receive, is its own futility. Why did not Mr. Hargrave, instead of his *ipse dixit*, produce authorities to set

strange, contrary, and adverse winds, be driven and wrecked upon the coast of England; that the ships were lost and destroyed, but that the Negroes had been landed in safety on this shore of freedom: would the African company, my Lord, be justified and entitled to re-ship these Negroes in other vessels, to the end that they might be conveyed to their destined ports in America? Or, would the pure air of this country, as has been insisted on, set them, with caps of liberty on their heads, free and at

afide this objection? He is on other occasions not sparing of proofs and citations. But what is his *ipse dixit*? It is this:

The Legislature has permitted the slavery of Negroes in America:

But the slavery of Negroes is unnecessary in England:

Ergo, the Legislature has not extended the permission of it to England.

This is his mode of reasoning, and these are his very words, which, when examined syllogistically, shew, if I have not forgotten my Logic, that they are as little conformable to rule, as to matter of fact. But, the fact is, Mr. Hargrave has found this objection a stumbling block in his way, and therefore, nimbly leaping over it himself, has left it to trip up the heels of his followers

large ;

large; thereby robbing, for so I must call it, these merchants of their property to the amount of one million of money, at the allowance, and on the moderate computation, of fifty pounds price for each individual Negroe? In this kingdom of commerce, my Lord, where the rights of merchants are so well distinguished, and the laws of trade are so minutely known, I should presume that the case would not admit of a question. Of what use would the charter of this company be to them, if the laws protective of that charter should be found inadequate and ineffectual to the maintenance and security of their property? But again: it has been observed, my Lord, that by the statute of the 5th of George III. ch. xlv. a number of canoe-men, and other Negroes, in Africa, were vested in the Crown. Now, by canoe-men, I suppose, my Lord, are meant, African sailors. Suppose then, that one hundred, for example, of these sailors should, by
some

some contrivance or other, find their way into England ; would the King, my Lord, have authority to remand them to their place of duty ? or, would writs of Habeas Corpus, in despite of this act of parliament, protect them here ; thereby determining the right of the Crown in them ? The case, my Lord, speaks and determines for itself. Wherein then, my Lord, differs the case of Mr. Steuart from these ? Their importance is greater, but the principle throughout is the same. I believe it is not denied that Mr. Steuart was the *bona fide* purchaser of Somerset, in the legal course of trade. I do not apprehend that any evidence was offered to shew that he had stolen him, or that he came by him otherwise surreptitiously. If my memory does not fail me, the property was proved, by affidavit, before your Lordship ; or it was stated in the return made to the Writ of Habeas Corpus ; but in either way it is of no concern, since the title-deeds are

not now before the Court as the objects of Litigation [e].

[e] With respect to the statute of the 5th of Geo. II. c. 7. there are not wanting frequent instances of its having been enforced in this country; particularly in a case of the noted Rice: who, forging a Letter of Attorney with intent to defraud the Bank of England of a considerable sum of money, fled to France, was delivered up by that Court, and afterwards hanged at Tyburn. It seems, upon his absconding, a commission of Bankruptcy was awarded against him; and the Commissioners, as I am credibly informed, under this very Act of Parliament here mentioned, sold a Negroe of his in the city of London, as his property, and among his other goods and chattels, for the satisfaction of the creditors. But this act does not require cases for its confirmation, neither is it the place where executed that I contend for: it is *the vesting the property*, without proviso or condition, that surmounts all objection. Suppose I had purchased a Negroe in the Island of Barbados, or in any other part of America, that had been extended there at the suit of the King for a debt due to him, and had brought this Negroe with me to England: would Mr. Hargrave, or any other lawyer, say, that a writ of Habeas Corpus, or any other writ whatsoever *not founded on the verdict of a jury*, could dispossess me of a property, which I held under the sense, letter, and spirit of an Act of Parliament? Can any implication of law operate against the express words and meaning of a law? And would it not be *reductio ad absurdum* to argue thus?

Here

Here then, my Lord, without farther disquisition, I might venture to rest the defence of Mr. Stéuart, and therein the law of the case itself. The reasoning, perhaps, may be said to be new, and it is opinion only of my own that supports the doctrine: but, I trust, that, upon examination, it will be found to be not therefore the less conclusive. However, as I am upon the subject, it may not be amiss that I should pursue it somewhat farther; and, by extending the chain of enquiry, strengthen and enforce the arguments that have been already offered and applied. It was said, by one of the plaintiff's counsel, that municipal laws were binding only in the state wherein they were made; that, as soon as a member of that state was out of it, they ceased to have their influence on him; and the laws of nature of course succeeded to him. As a general proposition, my Lord, this might have had its admission; but even as such, it is not without its exception. I think I have the most
classical

classical authority of the law to say otherwise. For instance, allegiance, which is the duty that every subject owes to the sovereign, or sovereignty, of that particular state to which he belongs, is a municipal law; and yet, neither time, place, nor circumstance, can alter, forfeit, or cancel, the obligation. An Englishman (says Judge Blackstone [f]), who removes to France or to China, owes the same allegiance to the King of England there as at home, and twenty years hence as well as now. But, my Lord, with regard to the particular application of this proposition, when the gentleman endeavoured to make a distinction between the laws of the colonies and the laws of England, in my apprehension he was extremely mistaken. I fancy the relationship and dependency of the children colonies on their mother country did not occur to his mind. The circumstance of their having internal laws of their own, by no means argues a difference in

[f] Vide Blackstone's Commentaries, vol. i. p. 369.

those laws, independent of the laws of England. As well might it be said, that the laws of England are not the laws of the county of Kent, because by the custom of gavelkind they differ from the general laws in the disposition of estates; and so of Borough-English, and wherever in this kingdom particular customs are to be found or met with. But, my Lord, it is not only a first and leading principle of legislation in the colonies, arising out of their original grants and charters, and enforced by the royal instructions given to commanders in chief there; but it is also enacted by the statute of the 7th and 8th of William III. ch. 22. "that no law, usage, or custom, shall be made or received in the plantations, repugnant to the laws of England:" so that, by these restrictions, the very *leges loci* (wherein, from situation, from climate, and from other circumstances, one might naturally suppose some difference) are forced as much as may be to a conformity with the constitution and laws of this country; and

and to prevent even the accident of a contrary occurrence, your Lordship knows, that there is a counsellour appointed to the board of trade here, whose especial business it is, to examine all the colony acts, and thereupon to make his report, if necessary, antecedent to the royal confirmation of them. If property, therefore, in Negroes, was repugnant to the law of England, it could not be the law of America: for (besides the reasons already assigned) by the same statute wherever this repugnancy is, there the law is *ipso facto* null and void. But, my Lord, I will further endeavour to elucidate this matter, by begging a question or two, by way of case in point. Let it be admitted, my Lord, that a colony of English had embarked from hence, in order to establish settlements for themselves in some one of the late ceded islands in the West Indies, and that they were arrived, it may be said, in the island, *where English troops, trampling on the laws of God and man, are slaughtering*

even to extirpation a guiltless race of Caribs, the aborigines of the country. I mean the island of St. Vincent, an island under the tutelage of a Saint too! Suppose then, that, upon their arrival there, the Legislature of that country had taken it into their heads to pass an act similar to the 25th of Geo. II. ch. 40. already referred to, thereby vesting these people as property, in certain owners allotted to them: I should be glad to know, my Lord, whether this act could possibly have operated as a law, and whether it was not, *eo instanti*, upon its being enacted, destitute and void of all force, validity, and effect? Your Lordship's answer doubtless would be, that this act must have been its own executioner, that it was *felo de se*. Why then, my Lord, does not the principle directive of this conclusion on the case of the colony of English, determine likewise on the case of the Negroes? If an act of an American plantation making property of a colony of English there, is nullified *ab initio* from its being

being enacted, why is not an act making property of a colony of Africans susceptible of the same nullity? The reason, my Lord, is twofold: first, because in the one act, such a law is not only repugnant to, but absolutely subversive of, the laws of England: secondly, because in the other act, such a law is not only consistent with, but founded on, the laws of England: and this, my Lord, proves to mathematical demonstration, that the colony laws are not only in general dependent on the laws of England, but, in particular instances, owe their origin and source to them: so that, as the refracted rays of light, diverging from one point through a prism, may be centred in the same focus; in like manner may these laws, notwithstanding their number and variety, be collected and disposed of in one common system or digest, as parts of the same whole. From what therefore I have here suggested, my Lord, I mean to conclude generally, that the right and property, not only of Mr. Steuart in his

Negroe

Negroes Somerset, but of every subject of Great Britain in his Negroes or Negroes, either in the colonies or elsewhere, is a right and property founded in him by the law of this land; that the royal grants, letters patent, and charters, for and of the African trade and company, confirmed and established by acts of Parliament, are the foundation whereupon all the laws of the colonies, respecting their Negroes, are built; and that, without such sanction, those laws could never have been made. For, my Lord, it is evident that the colonies could not have had power of themselves to institute this trade to Africa; neither have they the means to support it. Without this trade then to Africa, no Negroes could have been imported to them; and if they had had no Negroes among them, they had needed no laws appertaining to Negroes [g].

But

[g] Mr. Hargrave further says, in his argument, p. 67, and 68, "The slavery of Negroes being admitted to be lawful *now* in America, however questionable its *first* introduction there might be, it may be urged that
the

But, my Lord, it may be urged, that although the laws of England may make property of Negroes, they do not make slaves of them. I should imagine that, although an individual, I might answer individually for every American subject of

the *lex loci* ought to prevail, and that the master's property in the Negroe as a slave having had a lawful commencement in America, cannot be justly varied by bringing him into England." This is one among other objections raised by Mr. Hargrave in order to receive his answer. Now as to the doubt expressed here, namely, "however questionable its first introduction there might be," the right of granting letters patent, and of erecting corporations for the purposes of trade, being the undoubted prerogative of the king as arbiter of the commerce of his dominions; the lawfulness of this trade to Africa is no more to be questioned whilst it was carried on under this direction, than it is to be questioned now it is under the controul of parliament. It was before constitutionally legal, it is now parliamentary so: but the answer to the objection itself is as little satisfactory as the doubt is. Here a most unnatural distinction is aimed at between the colony laws in America, and the laws of their mother country: putting the *lex loci* of these colonies upon the same footing with the *lex loci* of Russia or Prussia, or any other foreign country: whereas the *lex loci* of the colonies is founded on the *lex loci* of England, and is, *in totidem verbis*, the same, as has been made to appear.

the

the King, that they do not desire any greater interest in their Negroes than that of property. It is self-sufficient to answer all their purposes, and to produce all that great good which this nation experiences therefrom. It is a supposition of inhumanity, I hope, inapplicable to these people, that they should wish to make slaves of their Negroes, merely for the sake of slavery ; and if it should appear, that there is no such law existing in America, as the law of slavery, considered as such, I should infer that the contrary presumption was fittest to be entertained and received. The law respecting Negroes there, my Lord, is the law of property, consentaneous to the law of England. By this law they are made real estate, for the purpose of descent, and goods and chattels *quoad* the payment of debts. This is the original and fundamental law concerning Negroes. I do not remember ever to have seen the word Slavery made use of, in any law, of any colony, in America. I admit that Negroes

groes are there termed slaves: but I will tell your Lordship why. In the criminal law, where they become necessarily the objects of punishment, it is essential that they should have some descriptive name or title given to them. It is for this reason, therefore, that they are there, and there only, so called. As they had been already defined to be property, as Negroes, it could not be said that, if property should strike his master, property shall be punished; but it is said, that if a slave should strike his master, this slave shall be punished accordingly. Now in the antient law of England, my Lord, when slavery was part of the constitution, your Lordship knows, that not only the villein was described, but the law of villenage or bondage was also known and laid down. In the laws of America, the slave is made mention of, for the reason assigned; but the law of slavery, however impliedly, is no where expressly to be found,

H

But

But here, my Lord, I must beg leave to make a short digression, intentionally to wipe off an imputation, which by one of the plaintiff's counsel was thrown on the owners and possessors of Negroes in America. In the course of his pleading, he took occasion to draw a horrid and a frightful picture of the barbarity, and cruelties, that were exercised on these beings in the colonies; and concluded with hoping, that such practices would for ever remain forbidden to this country. Your Lordship knows, that wherever order is, there discipline must ensue. Like as cause and effect, they are inseparable one from the other. Now it is not to be presumed, that an hundred thousand Negroes are to be held in obedience to ten or fifteen thousand owners (for this perhaps may be found to be near the average) without some means or methods, which, from their accidental application, might so generally operate on their fears, as to produce the end required. It is so in the case of the
 navy;

navy ; it is so in the army of every country in the known world. A soldier would not put himself in the front of a battle, to run the risque of being shot through the head, if he did not know that this would be the certain consequence of his desertion: The fear of the latter gives him courage to engage in the former: or, how otherwise could fifty officers, perhaps, command a regiment of a thousand men? But, my Lord, the design of this gentleman's groupe of figures, was to induce a belief in the Court, that English feelings were to revolt at American punishments. As martial law is not the law of Westminster-hall, it is likely that he has not studied it: but, living in this country, I cannot suppose him a stranger to the effects of it. Who have not been eye-witnesses to the hundreds of stripes that have been given to soldiers on the parade of St. James's? I saw once, my Lord, two sailors [who were perhaps impressed men too] under the sentence of receiving five hundred lashes

each, flogged on their naked backs along the sides of thirty-four men of war, lying at anchor in the harbour of Spithead. Was such a punishment ever known to have been inflicted on any Negroe in the American plantations? No, my Lord: the laws of every colony forbid it: but a stronger law than these prevents it, the law of self-interest. Negroes are the riches of those who possess them. Land, without their aid and assistance, in order to cultivation, is useless, and of no value. If their healths are impaired, their labour is lost, and profit ceases. If their lives are destroyed, their places must be supplied with more difficulty, and at a much greater expence, than is commonly supposed. The good consequence of which, my Lord, is, that the state of Negroes, *cæteris paribus*, in America, is preferable, nay infinitely more desirable, than the condition of the poorer sort of people residing even in this boasted happy isle. I will not say, my Lord, that this is a rule without an exception. There are madmen
in

in all parts of the world, who, as such, act diametrically opposite to their interest, Such there are in America: but your Lordship sees, that the observation is founded on reason; and I can assure your Lordship, that it is the effect of general experience. But, my Lord, I cannot quit this subject without making all due allowance for the learned counsel's zeal for his client, and for the warmth of his youth, which probably might have hurried him into this ill-grounded and uncalled-for reproach. It was ill-grounded, as, I hope, I have proved: it was uncalled-for, because not necessary to the question; and could no otherwise have been applied or received, than as mere *argumenta ad passiones*: which, however admissible to the ears of a jury, to the distinguishing eye of a court, never fail to carry with them their own impropriety. But in justice to the gentleman, in other respects, I am called upon to say, that it was with infinite pleasure I perceived those rays of genius and abilities in him, which

I promise

promise to shine forth so conspicuously, to the ornament of this country, and to the honour of Barbados, his native island, in America.

I come now, my Lord, to say, that I hope it will not be imputed to me as vanity, that I have ventured to suggest what might in part have led the ideas of those great and wise men, the Lord Chancellours Talbot and Hardwicke, to the conclusion which they have drawn, namely, that Negroes in this country do not become free. I was encouraged in the undertaking, by the greatness of their authority. I was enlightened in the pursuit, by the evidence of their opinion. I thought myself justified in resting their chief reasons and motives on the principles of property ; and I will produce the opinion itself, as the warrant of my justification :

“ We are of opinion, That a slave, by
 “ coming from the West-Indies, either
 “ with or without his master, to Great-
 “ Britain or Ireland, doth not become
 “ free ;

“ free ; and that his master’s *property* or
 “ *right* in him is not thereby determined
 “ or varied ; and baptism doth not bestow
 “ freedom on him, nor make any altera-
 “ tion in his temporal condition in these
 “ kingdoms : We are also of opinion, that
 “ the master may *legally* compel him to
 “ return to the plantations [b].

“ P. YORK.

Jan. 24, 1729.

“ C. TALBOT.”

Upon this opinion, my Lord, I shall
 make no other remark, than that right and
 property seem to be the obvious ground and
 foundation of it, or the hinges whereupon
 the whole is made to hang and to turn.

But, my Lord, I will now admit, that
 what is held to be law, is at variance with
 this opinion. It is laid down “ that a
 “ Slave or Negroe, the instant he lands in

[b] This opinion was repeated by Lord Hardwick,
 sitting as Chancellour, twenty years after it had been
 given, with additional assurances, and under the ful-
 lest conviction of its strict conformity to the law.

“ England,

“ England, becomes a freeman ;” that is,
 “ the law will protect him in the enjoy-
 “ ment of his person and his property ;
 “ yet with regard to any right which the
 “ master may have acquired to the perpe-
 “ tual service of John or Thomas, this will
 “ remain exactly in the same state as be-
 “ fore.” The interpreters of this law, my
 Lord, may be *right* in point of *reason* ;
 but, I submit it, that they are *wrong* in
 point of *law* [i]. The case is this, my Lord :
 seeing that Negroes are human creatures,
 it would seemingly follow that they should
 be allowed the privileges of their nature,
 which, in this country particularly, are in
 part the enjoyment of person and pro-
 perty. Now, from hence a relation is in-
 ferred, that has not the least colour of
 existence in law. A Negroe is looked upon

[i] It is said, *Lex est summa ratio*. I am sorry that
 so excellent a rule of law should admit of contra-
 diction ; and I wish that this was the only instance of
 an exception : but, let it be considered, whether our
 Game laws, our Marriage acts, and, for the most part,
 the penal laws of this country, *cum multis aliis quæ*
&c. are not contrary both to reason and nature.

is looked upon to be the servant of his master; but by what authority is the relation of *servant* and *master* created? Not by the authority of the law, however it may be by the evidence of reason. By the law, the relation is, as *Negro* and *Owner*: he is made matter of trade; he is an article of commerce, he is said to be property; he is goods, chattels, and effects, vestable and vested in his owner. This, my Lord, is the law of England, however contradictory to, or subversive of, the law of reason [k].

Now as to the fact of property in Negroes, without exception to this kingdom or limitation to other countries, I am supported in opinion by the authority of the learned Judge Blackstone; though he ascribes the rise of this property to a source very different from me. In the chapter, of Title to

[k] "It is laid down," says Judge Blackstone, "that acts of parliament contrary to reason are void: but if the parliament will positively enact a thing to be done which is *unreasonable*, I know of no power that can controul it."

V. his Comm. Vol. I. p. 91.

I

things

things personal by occupancy, he says,
 “ As in the goods of the enemy, so also
 “ in his person, a man may acquire a fort
 “ of qualified property, by taking him a
 “ prisoner in war, at least till his ransom
 “ be paid. And this doctrine seems to have
 “ been extended to Negroe servants, who
 “ are purchased when captives, of the na-
 “ tions with whom they are at war, and
 “ continue therefore in some degree the
 “ *property of their masters* (he should have
 “ rather said *owners*) *who buy them.*” Here
 then he refers to the law of nations, for
 the establishment of that which I appeal
 to the law of England for. Now, although
 the law of nations might have been a good
 ground to rest the municipal law of this
 country upon, and might have served as a
 preamble to, or reason for, an act of parlia-
 ment; yet it is not within my conception,
 how, in such an internal concern as this is,
 the law of nations could have been the law
 itself. For example, if in the return to
 the writ of Habeas Corpus in this case, it
 had been set forth, that Negroe servants are
 pur-

purchased when captives of the nations with whom they are at war, and therefore the *law of nations* gives their masters a property in their persons; would your Lordship have thought this a *lawful* plea for the remanding of Somerset? If not, your Lordship finds that the fact of property is admitted by the learned Judge, without the proper foundation of law to support it. But he proceeds to say, “though, *accurately speaking*, that property consists rather in the perpetual service, than in the body or person of the captives.” *Accurately speaking*, my Lord, I join issue with the learned Judge: but, *legally speaking*, the law is as he had stated it to be. Those who speak accurately reason from the real nature of Negroes, and draw their conclusions from thence: the Lords Talbot and Hardwicke spoke legally, and drew their opinions from the fountain-head of law. Besides, my Lord, I conceive it to be impossible that the law should be as these interpreters or reporters have made it to be; because the result of it is plain inconsistent-

cy, and positive absurdity. If Somerset is protected by the law of England in the enjoyment of his person and property, how, in appeal to common sense, can Mr. Steuart's right in him remain exactly in the same state as before? "Yes, it may be said, he has a right to the perpetual service of him; for this is no more than the same state of subjection for life, which every apprentice submits to for the space of seven years, or sometimes for a longer time." But by what mode or method does Mr. Steuart acquire this perpetual right to his service? There is no indenture of apprenticeship on the part of Somerset to him: there is no written contract of any sort or kind whatever, there is no parole agreement between them, to enforce this right of service. How is it to be maintained then? If by the purchase of him, property is the offspring of purchase; and, as such, Mr. Steuart claims him. If he is not his property, he has otherwise no right in him, nor to his services; and, again, if he is his property, who shall disseise him thereof?

As

As I began, my Lord, with making a distinction between slavery and property, and have persisted in their legal difference relatively to the state and condition of Negroes, some farther explanation on this point may perhaps be looked for and required of me. I am sensible it may objectively be said, that in every kind of slavery there is an included degree of property, more or less limited or extended; and that this kind of property therefore in Negroes is but an accumulated degree of slavery: so that the distinction I have made is a distinction without a difference, and a mere contentiousness about words. Now, although I admit the truth of this objection in part, I must deny, in the whole, its application to the principles of my argument. Slavery, my Lord, is that state of subjection, which mankind, by force or otherwise, acquire *the one over the other*. In every society therefore where this state of subjection prevails, the object and subject of those laws necessary for the regulation thereof are, what? *human nature itself*.

Let

Let it be considered then whether *human nature* is either the object or subject of the laws of England, respecting the state and condition of Negroes. I beg leave, my Lord, to assert, that the appeal I have already made to those laws maintains the contrary matter of fact, with the undeniable proof of self-evidence. But, my Lord, it may again be urged, that authority, however respectable, is not the test of truth; and therefore, says the disputant, shew me the reason, the *Cur*, the *Quare*, the *Quamobrem*, of these laws. To this, my Lord, in the language and postulate of the Greek Philosopher, I reply; that, as matter of fact is the $\Delta\omicron\varsigma\ \omega\tilde{\epsilon}\ \varsigma\tilde{\omega}$ of my argument, beyond this, it is not incumbent on me to extend my enquiries. However, my Lord, as a research of this nature is perhaps founded upon no impertinent or unmeaning curiosity, so the suggestions even of fancy and imagination may not be here undeserving your Lordship's attention. It being evidently the will, it is to be presumed, till the

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contrary

contrary appears, that it was the effect also of the wisdom of parliament, that Negroes under the law should not be considered as human beings; and therefore I am led to surmise that this determination of the Legislature might have arisen from one or the other of two motives or considerations: the one *physical*, the other *political*. With respect then to the physical motive, your Lordship need not be told how much the origin of Negroes, the cause of that remarkable difference in complexion from the rest of mankind, and the woolly covering of their heads so similar to the fleece of sheep, have puzzled and perplexed the Naturalists of all countries for ages past. It was a subject of the deepest reflection to the great and learned Mr. Boyle; and what could engage his divine abilities, without satisfaction either to himself or others, is likely to remain among those *arcana* of nature that are not to be revealed to human understanding. But, although these phenomena in nature are not to be accounted for,

for, and therefore admit of no principle of law inferible from them; yet their very incomprehensibleness, when compared with other circumstances more known and better understood, may serve to this end, as so many lesser weights in the scales of greater probability. Now, my Lord, it is an opinion *universally* received, that human nature is *universally* the same: but I should apprehend that this was a proposition rather taken for granted, than admitted to be proved; for although the proper study of mankind is man, and therefore the universality of such an opinion is *prima facie* evidence of its truth; yet, it is to be observed, that, of all other studies, the science of man has been least of all cultivated and improved. Man only, who examines all Nature else, stands unexamined by himself. If we look into the vegetable and mineral kingdoms of this world, we shall perceive a scrutiny made in them the most nice, accurate, and comprehensive; we shall find these grand divisions of nature
arranged

arranged in classes, orders, kinds, and sorts: we shall contemplate systems morally perfect. If we take a view of the animal kingdom below ourselves, we shall be witnesses there also of the same order, regularity, and perfection. Why then is human nature exempt from this disquisition and arrangement? Are men afraid to turn their eyes upon themselves, lest they behold themselves in the mirror of truth? Or is it pride, or vanity, that causes this neglect? Yes, men would be angels, angels would be gods, says Mr. Pope [1]; and yet man, as Doctor Lister observes [m], is as very a quadruped as any animal on earth; and whose actions are most of them resolvable into instinct, notwithstanding the principles which custom and education have superinduced. Of other animals then, it is well known, there are many kinds, each kind having its proper species subordinate thereto: but man is one kind of animal, and yet, without distinction of species,

[1] Vid. his Essay on Man,

[m] Vid. his Journ. to Paris.

universally the same. Does not this seem to break in upon and unlink that great chain of Heaven, which in due gradation joins and unites the whole with all its parts? May it not be more perfective of the system to say, that human nature is a class, comprehending an order of beings, of which man is the genus, divided into distinct and separate species of men? All other species of the animal kingdom have their marks of distinction: why should man be universally indiscriminate one to the other?

The great Mr. Locke says [*n*], that reason is supposed to make the characteristic difference between man and beasts: but, what is the characteristic that distinguishes man from man? That there may and should be such a distinction, I have already endeavoured to shew; and I am apt to think that this is a question not without its answer. The learned Doctor Hutchinson [*o*] has demonstrated the existence of *a moral sense* in, and peculiar to, human nature;

[*n*] Vid. his Essay on Human Understanding.

[*o*] Vid. his Moral Philosophy.

which

which as it serves essentially to distinguish man from beasts, and to raise him from the tenth to the ten thousandth link of the chain, so is it, in my humble apprehension, an evident criterion of the specific difference between man and man. Now Mr. Locke, speaking of reason as that faculty whereby man is distinguished from beasts, says, that beasts have reason in common with men; in which however he is to be understood, that beasts possess the faculty, and in some measure have the use, of reason; but man's superiority over beasts consists in the power of exerting that faculty, and in the compound ratio of its exertion. As beasts therefore have the faculty of reason, and it is the exertion in degree of that faculty (particularly in obtaining abstract ideas) that creates the great difference between man and beasts: so by the same parity of reasoning, the *moral sense* being a faculty of the human mind common to all men, the capacity of perceiving moral relations, the power of exercising that facul-

ty, and the compound ratio of its exercise, is that which makes the grand difference and distinction between man and man. All nature, my Lord, which is the art of God, is wisely fitted and adapted to that use and purpose for which it was ordained; and the same observation is to be made even in the art of man. A flea is not less perfect than an elephant because of its size: neither is the cup that holds a pint less compleat than the vessel that contains an hundred gallons; when both are full, the end for which both were designed is answered and fulfilled. The use then to be made of this doctrine, my Lord, is, that as experience, observation, and experiment, are the foundations upon which all speculative philosophy is raised; so, from experience and observation, I judge that the truth of this hypothesis may be very clearly proved and demonstrated. Now, in order to this, it is necessary to have recourse to the histories of nations: to read, to examine, and compare them, one with the other. To observe the moral improvements
had

had by them, to remark the social virtues that prevail; and this will bring me to the accounts that have been given of Negroes (for histories they have none of their own) and consequently back to the subject of this address to your Lordship. But, my Lord, forbearing to trouble your Lordship with a detail of these accounts, I shall, referring them to your Lordship's memory, content myself with the bare mention of a few facts only [p].

Mr.

[p] In looking into Mr. Hume's Essays, particularly the one of *national characters* (which I had never seen till after the above argument was finished) I was made happy to observe the ideas of so ingenious a writer corresponding with my own: but as we differ in some respects, and much of what I have suggested has been not at all taken notice of by him, I shall beg leave to insert here what he has said upon the subject. "There is, says he, some reason to think, that all nations, which live beyond the polar circles or betwixt the tropics, are inferior to the rest of the species, and are utterly incapable of all the higher attainments of the human mind," Upon which he has the following note: "I am apt to suspect the Negroes, and in general all the other species of men (for there are four or five different kinds) to be naturally inferior to the whites."

Now

Mr. Guthrie, in his account of Africa from the tropic of Cancer to the Cape of Good Hope, says, “ The history of this continent is little known, and probably affords

New I do not apprehend, that, in order to have different *species* of men, it is at all necessary to have four or five different *kinds*. I infer, that there is but *one* *genus* or *kind* of man (under the term *mankind*) subordinate to which there are several *sorts* or *species* of men, differing from each other upon the principle that I have assigned; and,

If one will do

What need of two?

Besides, it is seemingly a less systematical arrangement. But he proceeds to say, “ There never was a civilized nation of any other complexion than white, nor even any individual eminent either in action or speculation. No ingenious manufactures amongst them, no arts, no sciences. On the other hand, the most rude and barbarous of the whites, such as the antient Germans, or the present Tartars, have still something eminent about them, in their valour, form of government, or some other particular. Such a uniform and constant difference could not happen, in so many countries and ages, if nature had not made an original distinction betwixt these breeds of men. Not to mention our colonies, there are Negroe slaves dispersed all over Europe, of which none ever discovered any symptoms of ingenuity; though low people without education will start up among us, and distinguish themselves in every profession. In Jamaica indeed they talk of one
Negroe

affords no materials which deserve to render it more so. We know from the ancients, who sailed a considerable way round the coasts, that the inhabitants were in *the same rude situation* near 2000 years ago in which they are in at present ; that is, they had *nothing of humanity* about them *but the form*. This may either be accounted for by supposing, that nature has placed some insuperable barrier between the na-

Negroes as a man of parts and learning ; but, 'tis likely he is admired for very slender accomplishments, like a parrot who speaks a few words plainly." Thus Mr. Hume marks the difference betwixt the several species of men, by their natural capacity or incapacity of exerting in degree the rational powers, or faculties of the understanding ; which is the distinction that Mr. Locke makes between man and brutes. I distinguish man from man by *the moral sense* or moral powers ; and although a Negro is found, in Jamaica or elsewhere, ever so sensible and acute ; yet if he is incapable of moral sensations, or perceives them only as beasts do simple ideas, without the power of combination, in order to use (which I verily believe to be the case) ; it is a mark that distinguishes him from the man who feels and is capable of these moral sensations, who knows their application and the purposes of them, as sufficiently, as he himself is distinguished from the highest species of brutes.

tives

tives of this division of Africa and the inhabitants of Europe; or that the former, being so long accustomed to a savage manner of life, and degenerating from one age to another, at length became altogether incapable of making any progress in civility or science. It is very *certain* that all the attempts of the Europeans, particularly of the Dutch at the Cape of Good Hope, have been hitherto ineffectual for making the least impression on these savage mortals, or giving them the least inclination or even idea of the European manner of life."

All other writers on this subject agree in these relations, or furnish others similar to them: nor have I been able to find one author, by whom I could discover that there was any sort of plan or system of morality conceived by these tribes of Africa, or practised among them. Their barbarity to their children debases their nature even below that of brutes. Their cruelty to their aged parents is of a kin to this. They have a religion, it is true; but it is a religion
which

which seems the effect only of outward impressions, and in which neither the head nor the heart have any concern. They have laws founded on principles, which plainly prove the defective use of the *moral sense*, as appears in this instance among the rest. Their Judges are judges and executioners at one and the same time. When a criminal is condemned by them, the Chief Justice first strikes him with a club, and then all the rest of the Judges fall upon him, and drub him to death ; and neither this, nor any other of their customs, can time make any alteration in, nor precept nor example amend. Indeed, if it were otherwise, it would perhaps be unnatural : for the Ethiopian cannot change his skin, nor the Leopard his spots. From this then, my Lord, I infer, that the measure of these beings may be as compleat, as that of any other race of mortals ; filling up that space in life beyond the bounds of which they are not capable of passing ; differing from other men, not

in *kind*, but in *species* ; and verifying that unerring truth of Mr. Pope, that

“ Order is heaven’s first law ; and this confess,

“ Some are, and must be, greater than the rest :
The application of what has been said, is, that the Legislature, perceiving the *corporeal* as well as *intellectual* differences of Negroes from other people, knowing the irreclaimable savageness of their manners, and of course supposing that they were an inferior race of people, the conclusion was, to follow the commercial genius of this country, in enacting that they should be considered and distinguished (as they are) as articles of its trade and commerce only [q].

Thus,

[q] There are two cases referred to in Mr. Hargrave’s argument, (p. 52. and p. 54.) which are not only fully explanatory of the above principles, but support the opinion of the Lord Chancellours, Hardwick, and Talbot; and are in direct proof of the whole of my argument. The cases I allude to, are those of Butts and Penny, and Gelly against Cleve. The first was an action of *Trover* for 10 Negroes; and there was a special verdict, &c. The Court held, that *Negroes being usually bought and sold amongst Merchants, and being infidels*, there might be a property in them sufficient to maintain the action. In the second case, the Court is

said

Thus, my Lord, borne on the wings of Fancy, and led by Imagination's wily train, have I ventured in untrodden paths to trespass on philosophic ground; to which offence, however, pleading guilty at your Lordship's bar, I submit to the justice of your sentence, whatever your Lordship's judgment may be.

Having discussed, my Lord, the physical motive, which, as it is apprehended, might have occasioned the civil existence, if I may so say, of Negroes in this kingdom; the political consideration proposed comes next in the order of enquiry. It must be observed, my Lord, that if the cause already assigned

said to have held, that *Trover* will lie for a Negroe boy, because *Negraes are Heathens*; and therefore a man may have property in them; and the Court without averment will take notice, that they are *Heathens*. Now upon two judicial determinations are the very reasons of my argument held and alledged. *Negroes are infidels: Negroes are Heathens*; of course unpossessed of those religious and moral truths, which the Gospel impresses upon all minds capable of receiving them; and therefore the law, regarding the inferior state of their nature, has considered them merely as *property bought and sold among merchants*.

is the real cause, whatever is to be advanced on this head, is useless and superfluous. Both causes cannot be true at one and the same time. They are meant and must be received in the alternative; or as the two strings of Nimrod's bow, of which if either failed, the other supplied the want; and of whom Mr. Pope thus speaks:

“ Bold Nimrod first the savage chace began,

“ A mighty Hunter, and his *game was man*.”

Now the physical motive supposes a difference of species among men, and an inferiority of that species in Negroes: whereas the political consideration, on the other hand, infers an universal sameness in human nature; that is to say, in fact, that Englishmen are Negroes, and Negroes are Englishmen, to all *natural* intents and purposes. For what signifies the black skin, and the flat nose, as the great Baron Montesquieu would insinuate[r]? And yet methinks, if the Baron had had a black skin, and a flat nose, the world never would

[r] Vid. his Spirit of Laws, vol. I. p. 341.

have had the benefit of his *Esprit des Loix*. Upon this ground then, the question that arises is, what could have given rise to this degradation and debasement of human nature? If these our fellow-creatures were instruments necessary for the colonizing of America, and to this end compulsory laws were expedient also, why were these laws not made suitable and suited to their nature? Why were Negroes ordained a *mortuum vadum*, instead of a *vivum vadum*, (so to speak for comparison sake) to those under whose dominion they came? Might not the laws of villenage have been revived *quoad* them? Might not other laws of slavery have been enacted for their government?

Here is it then that policy, which is the object of my discovery, must have intervened. Now the planting of the colonies opening with the 16th century, and consequently commencing nearly with the reign of James I. it appears, that during the reigns of this race of kings, their cultivation

tivation and improvement were so rapidly had, that, from a state of infancy, before the end of the reign of Charles II, they had grown up and increased to the vigour of manhood. It is in this period of history, therefore, my Lord, that I am to search for, and to trace, the cause of this allotted condition of Negroes: but, as it cannot be expected that I should here enter into the particulars of these times, so neither is it necessary to my purpose. A single incontrovertible observation will serve to rest the whole of what I have to offer on this subject; and which is this: that from the *alpha* of the reign of James I, to the *omega* of the reign of James II, *to enslave*, was the fixed principle and uniform plan of government. This then at once accounts for the toleration of a measure, so inconsistent with the principles of the constitution of this country: but the reason upon which the measure was grounded is not so immediately obvious. From things that are more known, things that are less known must be deduced. Now it is a maxim in politics,

politics, that to obtain an end, direct means are not always to be pursued, or rather that *indirect* means are allowed to be practised ; and this will lead me to mention two questions that have been already stated. Why were not the laws of villenage enforced ? or why were not other laws of slavery enacted for the government of these people ? The answer is plain ; these were edged tools, which the complexion of the times would not suffer the use of. Enough was the plan of government exposed, though hid under the cloak of religion. Such a step would have left it naked, and without a covering. Policy therefore prevented that which the jealousy of the people would have forbidden. In vain would have been the argument, that these laws were intended for operation in the new world of America. *Ever to begin at the extremes* is a well-known rule in the art of attaining to despotism. The more distant the design, the deeper laid is the scheme, and the more sure in its consequences. As in the body natural, even so is it in the body politic. The disease
that

that lays hold of the toe, often finds its way to the heart. Gradual encroachments by imperceptible movements are the most dangerous symptoms. They call off attention to remedies, and lull suspicion to sleep. But may all lovers of liberty ever have their eyes open and awake to this despotic process! He that would tyrannise in America or abroad, awaits only the opportunity of becoming a tyrant at Home; but thank God, my Lord, the present times with us, of all others, give least occasion for any apprehensions of this sort. But to return. Instead then of that Demon Slavery being called in to preside over Negroes, Trade, the guardian angel of England, was made the ruler of them. This I attribute to policy; which, however seemingly more constitutional, was not less favourable to the ruling principle of the Crown. I have already admitted, that to erect corporations, and to grant Letters Patent for the purposes of trade, are in the Crown its undoubted prerogative; but, considering Negroes as human creatures, and upon a level with ourselves, I submit it to
your

your Lordship, that the Crown had no right to make slaves of them ; whatever the uncontrollable power of an act of parliament might do : and yet Charles the Second, by his Charter only to the Duke of York, *enslaved* whole nations of these people. The apology, I apprehend, for this, my Lord, will be ; that neither this Charter, nor any other Grant, have ever conceived Negroes in this light and view ; as, relation being thereunto had, will more fully appear [s]. If so, my Lord, two things come out in proof : *presumptively*, that the Crown had no right of itself to make slaves of Negroes, or it would, in those days at least, have exerted it ; *positively*, by these authorities themselves, that Ne-

[s] See also the Assiento, or Contract made with the South Sea Company for supplying the Spaniards with Negroes by treaty of commerce between Great Britain and Spain, in the year 1713-14 ; wherein they are considered as dutyable commodities, and named merely as matters of merchandize ; and if thus conceived of at this time, and on so solemn an occasion as a Treaty of Peace, by what new law or magic is it that they are now become the subjects of the Crown of England, and intitled to the benefit of the Habeas Corpus ?

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groes

groes are not considered as slaves under the idea of slavery, but merely as matter of commercial property, and articles of the trade of this country.

If now, my Lord, I have supported the doctrine which I took upon me to evince, and have satisfactorily shewn, that property is the gift of action in this case, thereby proving that Mr. Steuart may of course legally compel Somerset to return to the Plantations, I shall leave its decision to your Lordship, on a quotation of your own words : “ It is not my business to alter the
“ law, or to make it, but to find the law.”

It remains then only to observe, my Lord, that if Somerset is the legal property of Steuart, he, Somerset, cannot legally be entitled to the writ which he has sued out in aid of relief. The writ of Habeas Corpus is a writ of right given to the subjects of the Crown of England, for the security of their liberties. If Somerset can fall under this predicament and description, he is open to the benefits
that

that may arise therefrom; but if the law has already fixed the *fiat* of property on him, I apprehend it a legal exception to the writ, and his right is foreclosed thereby.

Having said thus much, my Lord, on one side of the question, I do not mean to conceal my sentiments on the other. My aim is, to establish the truth: my wish, that what is right should be done. Whatever then is here the result of my reflections, to obtain the end I propose, is necessary to your Lordship's information.

When this matter, therefore, was first in agitation, it stated itself thus generally to my comprehension: that as it was a case which existing for two centuries and upwards, and never receiving finally any judicial determination, it had better remain in the situation it was. It compared itself to me with some cases of royal prerogative, and of parliamentary privilege, which were excellent in theory, but subject to inconvenience in practice; and whose

best and safest law was that of suspense: but, my Lord, when I found that the case was to be argued, and the judgement of the Court of King's Bench taken thereupon, my hopes were, that, if it was possible to counteract the law of the land, the decision would be in favour of the Negroe: for although the knowledge of their being free might spirit them up to insurrections in America, yet it would put a stop to their importation here by their owners, and they would be more usefully kept and employed in the colonies to which they belonged. On the contrary determination too, my Lord, it being solemnly adjudged that Negroes in this country were not free, I foresaw that this fatal consequence might follow: that the trade from Africa to America would be diverted from Africa to England; and Negroes, in process of time, would be sold in Smithfield market, as horses and cattle now are. Each farmer would have his Negroe to drive his plough, each manufacturer his

slave under his own controul ; and America that was conquered in Germany, as was the saying of a very great man, would become America ruined in England.

A great deal, my Lord, was urged by the learned counsel, of the edicts of France, relative to Negroes : but it does not occur to my memory that this, among the rest, was taken notice of. It may be, that I am misinformed with respect to the fact ; but I will tell your Lordship how I came by it. I have been myself, my Lord, a traveller through every province of France, and during my tour I never had opportunity of seeing more than two Noirs (or Blacks) as they are there called ; one of which was at Marseilles, the other at Bourdeaux, the two chief ports of trade with the American colonies of that kingdom. Knowing therefore the intercourse with, and observing the fewness of these people, I was led to enquire into the reason of it ; when I was informed, that there was an absolute edict of the present King of France,

prohi-

prohibiting the importation of them into that country, upon this political idea, that otherwise the race of Frenchmen would, in time to come, be changed. Greater much, my Lord, is the reason in this country to apprehend this event. It was in representation, if not in proof, to your Lordship, that there were already fifteen thousand Negroes in England; and scarce is there a street in London that does not give many examples of that, which, with much less reason, had alarmed the fears of France. Upon the whole, then, my Lord, let America and England look up to your Lordship, as the man qualified to draw the line of propriety between them. To this end, let a Bill originate in the House of Lords, under your Lordship's formation; let slavery, so far as property is such in Negroes, be held in America: let the importation of them be prohibited to this country, with such other regulations and provisions as your Lordship shall see fit to take place. Some centuries back, slavery was the law, and slaves the objects of that law,

law, as I observed before, in this kingdom : but civilization has extinguished the existence of both. When America shall be what England is, some yet undiscovered land will become what America is. In short, my Lord, by this act you will preserve the race of Britons from stain and contamination ; and you will rightly confine a property to those colonies, upon whose prosperity and welfare the independent being of this country rests. I am,

My LORD,

Your Lordship's

most obedient,

and most devoted

humble servant,

SAMUEL ESTWICK.

Portman-Square,
Dec. 10, 1772.



ERRATA.

Page v, Line 13, antecedent, *r.* antecedently.

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|-------|--|
| xiii, | 19, <i>r.</i> of slavery. |
| xiv, | 8, <i>regerdant</i> , <i>regardant</i> . |
| xv, | 21, <i>be</i> acquainted, <i>r.</i> <i>be</i> acquainted. |
| 43, | 1, of the note, <i>compliedly</i> <i>r.</i> <i>impliedly</i> . |
| 59, | 5, <i>would</i> , <i>r.</i> <i>would</i> . |
| 61, | 2, <i>instead of</i> a comma, <i>put</i> a period. |
| 65, | 1, <i>dele</i> is looked upon. |
| 66, | 15, <i>Enlgand</i> , <i>r.</i> <i>England</i> . |